

Exhibit B

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By Barbara McKinley at 8:31 am, Sep 27, 2019

Clerk of the Superior Court

*** Filed ***

09/27/2019 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-014914

09/26/2019

HONORABLE DANIELLE J. VIOLA

CLERK OF THE COURT

K. Cabral
Deputy

FATIMA ELIZABETH SILVA SOTO

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9600 N 96TH ST # 130
SCOTTSDALE AZ 85258

v.

SMILE DIRECT CLUB

ANTHONY J FERNANDEZ

DOCKET-CIVIL-CCC
JUDGE VIOLA

**Defendant's Motion to Dismiss – Granted
Plaintiff's Request for Final Judgment – Denied**

The Court has received and considered the following documents:

1. Defendant's Special Appearance in Order to Move to Dismiss filed April 4, 2019;
2. Defendant's Special Appearance in Order to Move to Supplement its Motion to Dismiss filed May 21, 2019;
3. Defendant's Special Appearance in Order to Reply In Support of Its Motion to Dismiss filed June 5, 2019;
4. Defendant's Special Appearance in Order to Supplement its Motion to Dismiss filed June 24, 2019;
5. Defendant's Special Appearance in Order to Respond to Plaintiff's Request for Final Judgment by the Judge filed August 15, 2019;
6. Plaintiff's Response filed May 23, 2019;
7. Plaintiff's "Response" filed June 17, 2019;

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8. Plaintiff's "Response to Defendant" filed July 3, 2019;
9. Plaintiff's "Request for a final judgment by the judge" filed July 31, 2019; and
10. Plaintiff's Response to Defendant filed August 30, 2019.

Neither party requested oral argument and the Court concludes oral argument is unnecessary to resolve the pending issues. In summary, Defendant asks the Court to dismiss the case for three reasons: 1) the amount in controversy does not exceed \$10,000; 2) Defendant was not properly served; and 3) Plaintiff agreed to arbitrate her disputes with Defendant. Plaintiff asks the Court to assess her claims against Defendant and enter a judgment in her favor.

As an initial matter, the Court concludes that Plaintiff filed an affidavit of service reflecting service was properly made on Defendant within the deadline imposed by the Court on May 13, 2019. *See* Affidavit of Service filed April 25, 2019 and the Court's May 13, 2019 Minute Entry. Although service was effectuated, the other issues raised by Defendant establish that the Court lacks jurisdiction due to the amount in controversy and the applicable arbitration agreement. Plaintiff does not address the issue of the arbitration agreement nor does she explain why she is not required to bring her claims in arbitration. In fact, Plaintiff attaches the Agreement to Arbitrate to her June 17, 2019 filing.

Based on the amount in controversy and the allegations regarding same as well as the agreement to arbitrate, the Court concludes that a dismissal is appropriate. The Court notes that this dismissal does not operate to preclude Plaintiff from pursuing her claims in arbitration.

IT IS ORDERED granting Defendant's Special Appearance in Order to Move to Dismiss filed April 4, 2019 and Defendant's Special Appearance in Order to Move to Supplement its Motion to Dismiss filed May 21, 2019, and Defendant's Special Appearance in Order to Supplement its Motion to Dismiss filed June 24, 2019.

IT IS ORDERED Defendants' request for attorneys' fees is denied.

The Court having dismissed Plaintiff's claims, the Court finds no basis to enter any final judgment with respect to the merits of the claims.

IT IS ORDERED denying Plaintiff's requests for relief set forth in the following:

1. Plaintiff's Response filed May 23, 2019;
2. Plaintiff's "Response" filed June 17, 2019;
3. Plaintiff's "Response to Defendant" filed July 3, 2019;
4. Plaintiff's "Request for a final judgment by the judge" filed July 31, 2019; and
5. Plaintiff's Response to Defendant filed August 30, 2019.

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IT IS ORDERED denying any other relief requested and not specifically addressed in this minute entry.

No matters remain pending in this case. This is a final judgment under Ariz. R. Civ. P. 54(c).

Date: _____

/ s / DANIELLE J. VIOLA

DANIELLE J. VIOLA
JUDGE OF THE SUPERIOR COURT